

SENATE BILL REPORT

ESSB 5226

As Passed Senate, March 8, 2021

Title: An act relating to the suspension of licenses for traffic infractions.

Brief Description: Concerning the suspension of licenses for traffic infractions.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Salomon, Saldaña, Das, Frockt, Hasegawa, Kuderer, Lias, Lovelett, Muzzall, Nguyen, Nobles, Pedersen, Randall and Wilson, C.).

Brief History:

Committee Activity: Law & Justice: 2/04/21, 2/15/21 [DPS, DNP].

Floor Activity: Passed Senate: 3/8/21, 33-16.

Brief Summary of Engrossed First Substitute Bill

- Eliminates drivers' license suspension for the failure to pay a traffic infraction for a moving violation.
- Authorizes drivers' license suspension when a person fails to comply with a payment plan and fails to appear when requested by the court to appear and show evidence of ability to pay.
- Authorizes the Department of Licensing (DOL) to reinstate all driver's licenses suspended for reasons that are no longer grounds for suspension.
- Requires DOL take reasonable steps to publicize information regarding the availability of relief to reinstate a suspended license and create an online application process for people to apply for reinstatement.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5226 be substituted therefor, and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Darneille, Kuderer and Salomon.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Holy and Wagoner.

Staff: Shani Bauer (786-7468)

Background: Drivers License Suspension. No person may drive a motor vehicle on a roadway in the state without having a valid driver's license. It is unlawful for a person to drive a motor vehicle while that person's driver's license is suspended.

The Department of Licensing (DOL) is required to suspend an individual's driver's license when it receives notice from a court the person's license should be suspended for one of a variety of reasons, including when the person:

- has caused death or injury to a person by recklessly or unlawfully operating a motor vehicle;
- is subject to suspension due to the failure to pay child support or a civil judgment related to a motor vehicle crime;
- has been convicted of a moving violation or traffic infraction with such frequency as to indicate a disregard for the safety of others; or
- has failed to pay, respond, or appear at a requested hearing for a traffic infraction for a moving violation.

When DOL has suspended a person's driver's license, a new, duplicate, or renewal driver's license may not be issued until all requirements for reinstatement have been satisfied and a \$75 reissuance fee has been paid. This fee is increased to \$150 for suspensions due to driving under the influence offenses.

Driving While License Suspended or Revoked. If a person drives a motor vehicle in the state while their driver's license is suspended, they are guilty of a traffic offense. The degree of the offense varies based on the underlying reason for the driver's license suspension or revocation, with the severity ranging from a misdemeanor to a gross misdemeanor with specified minimum penalties.

If a person drives while their driver's license is suspended or revoked due to a failure to pay, respond, or appear at a requested hearing for a traffic infraction for a moving violation, the offense is driving while license suspended (DWLS) in the third degree, a misdemeanor. The penalty for DWLS in the third degree is up to a 90-day jail sentence or a fine up to \$1,000, or both.

Summary of Engrossed First Substitute Bill: Traffic Infractions. Failure to pay a traffic infraction will no longer result in the suspension or revocation of a person's driver's license.

The form of infraction must give a person the option to admit responsibility for the infraction, but attest that the person does not have the current ability to pay the penalty in full. The person must be informed of how to submit evidence of inability to pay and that failure to enter into a payment plan may result in collection action, including garnishment of wages or other assets.

The time period for a person to respond to a traffic infraction is increased from 15 days to 30 days from the date of the infraction.

Payment Plans. A person may request a payment plan at any time for the payment of any penalty, fee, cost, assessment, or other monetary obligation associated with a traffic infraction. The court must enter into a payment plan with the individual if the person has not previously been granted a payment plan for the same monetary obligation and the court has not referred the obligation to a collection agency for enforcement. If the person does not enter into a payment plan and has not paid the monetary obligation in full, the court may refer any unpaid portion for collection 90 days from the date of the infraction.

The court may require a person who enters into a payment plan and fails to pay as agreed to appear for a hearing and provide evidence of ability to pay. Failure to appear at a hearing may result in license suspension.

Multiple Traffic Infractions. When a person has committed a traffic infraction for a moving violation on three or more occasions within a one year period, or four or more occasions in a two year period, DOL must revoke the license of the driver for a period of 60 days and provide for a one year probationary period after the suspension ends. Prior to reinstatement of the person's license, the person must complete a safe driving course as recommended by DOL. Any new traffic infraction committed during the probationary period will result in an additional 30 day suspension. DOL must send a warning letter to the driver when the driver will face suspension if committing an additional infraction. DOL may not charge a reinstatement fee at the end of the term of revocation. Multiple traffic infractions issued during or as the result of a single traffic stop, constitute one occasion.

Reinstatement of Drivers Licenses. DOL is authorized to administratively reinstate the license of a person whose license has been suspended for the failure to pay, respond, or appear at a hearing for a traffic infraction prior to the effective date of this act. No later than 90 days after the effective date, DOL must create an online application process for eligible persons to apply for reinstatement of their driver's license and take reasonable steps to publicize the availability of relief.

Fees and Funding. A new account is created called the driver's licensing technology support account within the Highway Safety Fund. The account must be used only to support information technology systems used by DOL to communicate with the judicial information system, and manage driving records and implement court orders. The legislative assessment on traffic infractions is increased from \$20 to \$24 and \$4 of the

assessment is allocated to the new account. A new \$2 assessment is created on traffic infractions similar to the judicial information system's assessment and it is deposited into the new driver's licensing technology support account. A new \$1 fee is created on all applications for an original or renewal for driver's licenses and identicards, to be deposited into the Highway Safety Fund.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on March 1, 2022.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill severs the link between a person's ability to pay a traffic infraction and suspension of their license. License suspension would only come into play if the person is a risk to public safety.

Those who do not have the ability to pay a traffic infraction do not have the means to avoid a cycle of debt nonpayment. The traffic infraction leads to penalties, license suspension, and eventually DWLS3. Without a driver's license, the person cannot hold down a job and does not have the ability to pay the fines. This leads to economic devastation for hundreds of families.

Forty-three thousand people were charged with DWLS3 in 2020. Suspended drivers represent one-third of the prosecutorial caseload and disproportionately impacts marginalized communities. This policy punishes people for being poor. It is time to stop criminalizing poverty and enter into reasonable solutions.

Payment plans are not effective—if they were, we would not have current proliferation of DWLS3.

Twelve states have eliminated failure to pay and eight have eliminated failure to appear. The argument that license suspension is the only mechanism to enforce payment is simply not true. Revenue in San Francisco County actually increased after adopting this policy because drivers were able to go back to work.

CON: We believe SB 5349 is a better option than this bill. It would maintain accountability and maintain funding for courts. It would provide a fair chance for people to resolve obligations without criminal history. This bill goes too far.

This bill removes all incentive for people to pay fines. There is a direct correlation between payment and license suspension. Since 2012, a person's license is only suspended for repeat

violations. Tickets have zero impact on a person's credit rating while in collection. Citations are down 30 percent due Covid. We estimate revenue will be cut another 38 percent resulting from this bill. This bill places a large burden on courts without compensation to enter into these payment plans.

Collection companies allow a person to keep their license while accepting payments. Courts receive \$240,000 in payments every month at no cost to the courts. Payments are made for the sole reason that people do not want their license suspended. This bill will end this revenue stream at a time it is sorely needed.

There are many good options in place to assist people in getting their license back. Smaller cities will be hit especially hard by the drop in revenue and will not be able to fund courts.

We are in support of no longer suspending a driver's license for the failure to pay, but continue to oppose suspension for the failure to respond or failure to appear. There is a distinct difference between paying an infraction and ignoring the court. We support strengthening provisions that over-communicate to individuals their license will not be suspended for failure to pay.

OTHER: The implementation timeline in the bill is problematic. Court policies and forms need to be updated. We would ask for an effective date of January 1, 2023.

Persons Testifying: PRO: Corliss Samaniego; Jenna Robert, Seattle City Attorney's Office; Allister O'Brien, former legislator; Marla Murdock, Marla Murdock; Yolanda Quiroga, El Comité; Julianna Tesfu; Vicki Christophersen, Justice Action Network; Giovanni Severino, Progreso: Latino Progress; Cristina Ortega, Progreso: Latino Progress; Renee Kimball, impacted grassroots advocate; Nat Jacob, Jefferson Associated Counsel; Martha Ramos, Washington Drivers Relicensing Taskforce; Lee Newton, former executive secretary of the Washington Building & Construction Trades.

CON: Tammy Sund, Aberdeen Municipal Court; James McMahan, Washington Association of Sheriffs and Police Chiefs; Troy Peterson, PAR Court Payments; Mindy Chumbley, Washington Collectors Association; Kelsi Hamilton, Washington Collectors Association; Gwen Turner, Washington Collectors Association; Laura Olson, Court Account Management.

OTHER: Devon Connor-Green, Administrative Office of the Courts; Juliana Roe, Washington State Association of Counties; Paul Wohl, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying: No one.